

TOWN OF WARWICK
ZONING BOARD OF APPEALS

JANUARY 27, 2014

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Attorney Robert Fink

Kevin Shuback

Norman Paulsen

Members Absent:

Diane Bramich

CHAIRMAN JANSEN:
minutes from the meeting of November 25, 2013 approved?

MR. MALOCSAY:
minutes.

MR. SHUBACK:

CHAIRMAN JANSEN:

All in favor (4 Ayes) Motion carried.

Is there a motion to have the

I make a motion to accept the

I second.

Any discussion; all in favor?

PUBLIC HEARING OF TANYA M. HERNANDEZ BY FRANK NAHOVM, ATTORNEY IN FACT – for property located at 19 Deer Trail North, Greenwood Lake, New York and designated on the Town tax map as Section 72 Block 1 Lot 16.1 and located in an SM District for a variance of Section 164.41A permitting a 2 car garage 15 (+/-)feet from the front line where 30 feet are required and 4.6 feet from 1 side line; where 5 feet are required. **Continued from the 11/25/13 meeting.**

CHAIRMAN JANSEN:
from the December 2013 meeting.

This hearing is continued

ATTORNEY SWIFT: There was an issue at the last meeting having to do with the seepage pit being located under the garage. Since the last meeting, my client has been in contact with the Building Department. They have put forth our plans to the Town Engineer, Laura Barca. Here is her letter acknowledging receipt of plans. Her recommendation is to address the distance between the well and the septic system. Although my client owns three lots, the placement of the septic system was determined to be the best area of the property. The property is mostly shale rock. Ms. Barca was not concerned by the location under the garage of the seepage pit. What we are proposing is the installation of an aerobic treatment unit. It will be installed right around the garage and near the seepage pit. This has been submitted to the Department of Health, who is reviewing them now. We have not heard back from them.

MR. NAHOVM: The major concern here was the seepage pit under the garage. Ms. Barca was more concerned with the location of the well to the seepage pit. I do not have a big enough lot to move the seepage pit farther away. I am proposing to install a \$12,000 aerobic treatment unit to clean the water and solve the problem. I installed the best of the best septic system less than 10 years ago.

ATTORNEY FINK: Let me read the substance of the letter: After reviewing this information, I have determined that the required separation distances between the well and the septic system are not being achieved; therefore this application must be reviewed by the Orange County Department of Health. The applicant must contact the Orange County Dept. of Health and make an application directly to them for approval acceptance. If the system is approved, the applicant must submit copies of approval to the Town Building Department to acquire permit prior to any construction taking place.

MR. NAHOVM: That is what I have done; I have receipts that I submitted the entire package to the Health Department.

CHAIRMAN JANSEN:
submitted but no word back yet, correct?

So at this point, it has been

MR. NAHOVM: Yes.

CHAIRMAN JANSEN: There is nothing we can do at
this point until something comes back from them?

ATTORNEY FINK: Not really, unless you choose
to ignore that whole issue.

CHAIRMAN JANSEN: No, I don't think so. Until we
get something back, we can not act.

MR. NAHOVM: That is understandable.

CHAIRMAN JANSEN: Keep us informed. We will
continue this application when you hear back, either next month or the month after that.

MR. NAHOVM: Understood.

ATTORNEY SWIFT: We will be back in touch
with them tomorrow to try to speed things up.

ATTORNEY FINK: Is there anyone here to
address this application?

MS. NAHOVM: Yes, my name is Beatrice
Nahovm, wife of Frank. We have lived at this address for over 7 years and we are making these
changes to the garage because there is no storage in our home. We have three children and
needed the extra space.

CHAIRMAN JANSEN: Okay, thank you. Until this
application is resolved, we cannot act. The Public Hearing will remain open.

PUBLIC HEARING OF VASILE SOMERFALEAN - for property located at 50 Peters Terrace, Monroe, New York and designated on the Town tax map as Section 58 Block 1 Lot 24.24 and located in an MT District for a variance of Section 164.40N allowing solar panels 20 (+/-) feet from the front line where 100 feet are required. **Continued from the 11/25/13 ZBA Meeting.**

CHAIRMAN JANSEN: This application was continued from the November meeting. The Public Hearing is still open.

MR. SOMERFALEAN: I could see someone was there today.

CHAIRMAN JANSEN: Yes, Mr. Malocsay and I were there. And it was pretty much what we thought it would be.

MR. MALOCSAY: The footings are already in?

MR. SOMERFALEAN: Yes.

MR. MALOCSAY: From what we saw, it doesn't look like it will be visible.

MR. SOMERFALEAN: That is correct.

MR. MALOCSAY: It might be seen from the roadway.

MR. SOMERFALEAN: Yes, about a foot.

MR. MALOCSAY: I was thinking something could be planted in between the arborvitaes.

MR. SOMERFALEAN: No problem.

ATTORNEY FINK: You had spoken about how high it could go and also screening.

MR. SOMERFALEAN: I can accommodate this.

CHAIRMAN JANSEN: The only person who could see anything is the person who lives across and there is a great deal of vegetation.

ATTORNEY FINK:
joining lot?

Is that vegetation on the

CHAIRMAN JANSEN:
Public Discussion.

Yes. Let me open this up to

MR. SAFFIOTI:
I would like to reiterate that I am in support of the solar panels. If this is approved, I would want the vegetation/hedge to obstruct my view of the panels.

My name is Tom Saffioti and

CHAIRMAN JANSEN:
care of that.

A very low hedge would take

MR. SAFFIOTI:
contingency if this application is approved. I would like it covered naturally so that I do not see the back of the panels.

I would like this to make a

CHAIRMAN JANSEN:
would be visible from the road or from your property?

Are you concerned that it

MR. SAFFIOTI:
because anyone who wants to buy my house has to drive past his house. I would also like to see a contingency regarding expanding the height of the panels should he decide he needs additional energy. I would like to see a horizontal expansion along with more vegetation to conceal it.

Visible from the road;

CHAIRMAN JANSEN:
panels?

What is the height of the

MR. MALOCSAY:
but it is hard to scale it out.

There is a scale on the plans

CHAIRMAN JANSEN:

How far up are the panels?

MR. SHUBACK:

How high are the panels?

CHAIRMAN JANSEN:
well above that.

The arborvitaes are planted

MR. SOMERFALEAN:
may show about a foot.

It is at least 7 foot high and

CHAIRMAN JANSEN: So a two foot hedge would block the view.

MR. SOMERFALEAN: That would not be a problem.

MR. SOFFIOTI: I have a picture of what it looks like today so going forward, I would like it to be completely unseen.

CHAIRMAN JANSEN: So what can we attach to this application?

ATTORNEY FINK: Whatever is reasonable.

MR. PAULSEN: Who will inspect it?

CHAIRMAN JANSEN: The Building Department.

MR. SHUBACK: We could give him 6 months to get everything done.

CHAIRMAN JANSEN: Yes, sir, you would like to speak?

MR. RITZCOVAN: My name is Roberto Ritzcovon, I but his property on the south side. The way I see it, the government gives tax rebates for these kinds of things. I plan on doing this in the next 3 or 4 years. The other person's house is 800 feet from Mr. Somerfalean's home.

CHAIRMAN JANSEN: His concern is someone seeing the panels while driving down the road; not from the view from his house.

MR. RITZVOVAN: Someone driving by would have to stop and turn to see the panels. They are not that visible. I think this is something that is good for the community and the district. All the research that I have done about solar panels show the housing values go up.

ATTORNEY FINK: I have a question about the issue of how far from the property line this is structure going to be?

MR. SOMERFALEAN: At the south end, it is about 80 some feet. The other end is 60 or 70 feet. What is a structure? Building, usually?

ATTORNEY FINK: This is a structure. And 100 feet is required.

CHAIRMAN JANSEN: It will be less than that on the northern most side.

MR. SOMERFALEAN: I cannot move them as it would require me to cut down all my trees and I do not want to do that.

CHAIRMAN JANSEN: At the closest to the road, it might be 40 feet, Mark?

MR. MALOCSAY: No, it is a little more than that, because you measure from the center of the road.

CHAIRMAN JANSEN: I would give it 50 feet.

MR. PAULSEN: Why don't we find out what that number is?

MR. SOMERFALEAN: It will be difficult as the survey posts are not present as they would be in the middle of the road.

ATTORNEY FINK: All we have to say is that it can not be any closer than 'X'.

CHAIRMAN JANSEN: So why don't we say it can't be any closer than 50 feet from the middle of the road at the closest point.

MR. SOMERFALEAN: Measured from the footing?

ATTORNEY FINK: What wording do we use regarding the hedge?

CHAIRMAN JANSEN: The hedge/plants should be a minimum of 2 feet; however if the panels are still visible from the road, the vegetation would have to be higher.

ATTORNEY FINK: It has to render it invisible from the road?

MR. SHUBACK: I think that's enough.

ATTORNEY FINK: And this has to be dense enough by the end of the growing season in 2014. And the vegetation can be anything evergreen.

MR. MALOCSAY: I would suggest Boxwood.
They are deer resistant and grow fast.

MR. SHUBACK: You can buy them 2 foot high already.

MR. SOMERFALEAN: No problem.

CHAIRMAN JANSEN: Anyone else from the Public?

MR. MALOCSAY: I have a question about the setback. How long has it been 100 feet? Some of those houses have been there a long time. As to the character of the neighborhood, clearly there are structures closer than 100 feet.

MR. SOMERFALEAN: When I bought the property, it was 30 feet; I do not know what it is now.

CHAIRMAN JANSEN: The Public Hearing is closed.

ATTORNEY FINK: Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

CHAIRMAN JANSEN: I don't think so.

MR. MALOCSAY: Not with the screening as you are not supposed to be able to see it.

ATTORNEY FINK: There are other structures that are as close?

MR. MALOCSAY: When you look at the road, there are definitely structures closer than the 100 feet.

ATTORNEY FINK: Can it be achieved by any other feasible method?

CHAIRMAN JANSEN:	No.
ATTORNEY FINK: but, desirable, no.	Well, actually, feasible, yes;
CHAIRMAN JANSEN: more acres of wood to do it in another location.	He would have to clear 2 or
ATTORNEY FINK:	Is this a substantial variance?
MR. MALOCSAY:	Numerically, yes.
CHAIRMAN JANSEN:	Yes.
ATTORNEY FINK: adverse effect or impact on the physical or environmental conditions of the neighborhood?	Is this going to have an
MR. MALOCSAY:	No.
ATTORNEY FINK:	Is this self created?
MR. MALOCSAY:	Yes.
ATTORNEY FINK: this as Unlisted with no adverse environmental impact?	Would someone care to type
MR. MALOCSAY:	So moved.
MR. SHUBACK:	Seconded.
CHAIRMAN JANSEN:	Any discussion, all in favor?
All in favor (Four Ayes) Motion carried.	
ATTORNEY FINK: motion that the variance be granted; first, by changing the setback to no closer than 50 feet, second, by putting in a hedge, minimum of 2 feet in height to screen the structure from the road, and that the vegetation be in position by the end of the growing season 2014.	Would someone care to
MR. MALOCSAY:	So moved.

ATTORNEY FINK:
up was not elevating it.

And the other thing brought

MR. MALOCSAY:
and get another permit first.

He would have to come back

MR. SOMERFALEAN:
needs.

I am already at 110% of my

ATTORNEY FINK:
require another application to the Building Department.

So any elevation would

MR. PAULSEN:
extensions close to the road?

How about any lateral

ATTORNEY FINK:
the 50 feet. So would someone care to move?

He cannot go any closer than

MR. SHUBACK:

So moved.

MR. PAULSEN:

Seconded.

CHAIRMAN JANSEN:
favor?

Any further discussion; all in

All in favor (Four Ayes) Motion carried.

PUBLIC HEARING OF GREG PANOPOULOS – for property located at 16, 18 Edenville Road, Warwick, New York and designated on the Town tax map as Section 27 Block 1 Lots 30.221 & 30.3 and located in an RU District for a variance of Sections 164.40M permitting a lot line change resulting in 1 lot being reduced from .093 (+/-) acres to .069 (+/-) acres and the 2nd lot being increased from 0.20 (+/-) acres to 0.42 (+/-) acres where 4 acres per lot are required.

CHAIRMAN JANSEN: Please identify yourself for the record and tell us briefly what you would like to do.

MR. FRIEDLER: My name is Brian Friedler, Engineer from Lehman and Getz Engineering.

CHAIRMAN JANSEN: You were referred here by the Planning Board?

MR. FRIEDLER: Yes.

CHAIRMAN JANSEN: And they were recommending that this change be made?

MR. FRIEDLER: Yes. My client at 16 and 18 Edenville Road would like to change the acreage of two lots owned by him into two equal lots so that he can give them to his kids.

CHAIRMAN JANSEN: There are dwellings on both of the lots? And septic systems? There is no new building going on, on the lots?

MR. FRIEDLER: Yes and no new construction planned.

CHAIRMAN JANSEN: I'd like to open this up for discussion, any questions?

MR. MALOCSAY: I am looking at General Notes number 2: total area parcel is 1.132 acres. I am not sure where we are coming up with that.

MR. FRIEDLER: I think it was originally but then he dedicated some land to the town.

MR. SHUBACK: Along the road?

MR. FRIEDLER: Yes, on both properties.

MR. MALOCSAY: I am confused on total area of
parcel.

MR. FRIEDLER: I believe that is the compliant
parcel.

MR. MALOCSAY: That is the part that doesn't
make sense because then it would be 'parcels'.

CHAIRMAN JANSEN: Any other questions? Anyone
here from the Public that would like to address this application? No, Public Hearing is closed.

ATTORNEY FINK: Is this going to create an
undesirable change in the character of the neighborhood or be a detriment to nearby properties.

MR. MALOCSAY: There should be no change at
all, no.

ATTORNEY FINK: Can it be achieved by any
other feasible method?

MR. MALOCSAY: No.

ATTORNEY FINK: Is this a substantial variance?

MR. SHUBACK: No.

MR. MALOCSAY: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is this going to have an
adverse effect or impact on the physical or environmental conditions of the neighborhood?

MR. MALOCSAY: No.

ATTORNEY FINK: Is this self-created?

MR. MALOCSAY: Yes.

ATTORNEY FINK:
as Unlisted with no adverse environmental impact?

Would some care to type this

MR. MALOCSAY:

So moved.

MR. SHUBACK:

Seconded.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Four Ayes) Motion carried.

ATTORNEY FINK:

Motion to grant as advertised?

MR. MALOCSAY:

So moved.

MR. SHUBACK:

Seconded.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Four Ayes) Motion carried.

PUBLIC HEARING OF LUIS PELAEZ - for property located at 8 Morehouse Lane, Warwick, New York and designated on the Town tax map as Section 43 Block1 Lot 68.6 and located in an RU District for a variance of Sections 164.41.A(1)(a) & 164.40M permitting construction of a 48 foot X 42 foot barn where not more than 1,200 square feet are permitted nor more than 48 feet in greatest median dimension, on a vacant lot without a principal use.

CHAIRMAN JANSEN: tell us what it is you would like to do.	Please identify yourself and
MR. PROL: Builder.	My name is William Prol,
CHAIRMAN JANSEN: a house?	There is a building permit for
MR. PROL: for a house and it is started.	Correct, they did get a permit
CHAIRMAN JANSEN: with that part? It is now the 1200 sq foot verses 2,016.	We are no longer dealing
MR. PROL:	Correct.
ATTORNEY FINK:	Have you started the barn?
MR. PROL:	No.
ATTORNEY FINK: before the barn?	Is the house going to be in
MR. PROL: simultaneously. We will probably get the barn done first, though.	We want to do them
CHAIRMAN JANSEN: completed within 6 months or a year?	So the house will be
MR. PROL:	Within 8 months.
CHAIRMAN JANSEN: is completed. That will work?	6 months from when the barn

MR. PROL: Yes, that will work; make it 8
because I don't know how the weather will impact my schedule.

ATTORNEY FINK: The CO issued for the house
within 8 months of the completion of the barn.

MR. PROL: Ok, that is easy.

CHAIRMAN JANSEN: That part is acceptable to
everybody?

Four ayes.

CHAIRMAN JANSEN: So now we are concerned
with the size of the barn; recognizing that you could put up 3 barns to equal that size.

MR. PROL: Right.

ATTORNEY FINK: For the record, is there a
reason why you want to make it 48 by 42?

MR. PROL: He collects cars and wants to
park his cars 2 deep.

CHAIRMAN JANSEN: I did speak with a neighbor
and he would prefer to see a single barn.

MR. PROL: What are acceptable colors?
Can we do a red?

MR. MALOCSAY: There are reds that you can
use and reds that you cannot use.

CHAIRMAN JANSEN: You have to go back to the
Building Department to find out.

ATTORNEY FINK: There are other barns in the
area?

MR. PROL: Behind his property is a huge
horse barn.

CHAIRMAN JANSEN: The Public Hearing is closed
as there is no one here to address this application.

ATTORNEY FINK: Is this going to create an
undesirable change in the character of the neighborhood or be a detriment to nearby properties?

CHAIRMAN JANSEN: No.

ATTORNEY FINK: The size of the barn is not
unusual?

CHAIRMAN JANSEN: No, plus there is a bigger
barn not too far from it.

ATTORNEY FINK: Can it be achieved by any
other feasible method?

CHAIRMAN JANSEN: Yes, if he puts in 3 smaller
barns.

ATTORNEY FINK: The answer is yes.

CHAIRMAN JANSEN: But it would not be as
desirable to the neighborhood.

ATTORNEY FINK: Is this a substantial variance?

CHAIRMAN JANSEN: Yes.

MR. MALOCSAY: Yes.

ATTORNEY FINK: Is this going to have an
adverse effect or impact on the physical or environmental conditions of the neighborhood?

MR. MALOCSAY: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is this self-created?

MR. MALOCSAY: Yes.

ATTORNEY FINK: We are dealing with a variance and a half. We are dealing with a variance as to the size of the barn but not really a variance for the construction of the barn. If he does not complete the construction of the house within a certain amount of time, I mean, you are not granting him a variance to put up a barn. We are only dealing with the timing of it. Would someone care to type this as Unlisted with no adverse environmental impact?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (Four Ayes) Motion carried.

ATTORNEY FINK: Would someone care to move that it be passed with the size of the barn as advertised with the provision that he has to obtain a CO for the house within 8 months of the completion of the barn, specifically.

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (Four Ayes) Motion carried.

Meeting adjourned. Submitted by Pamela J. Carroll ZBA Recording Secretary.